DRAFT MUNICIPAL-STATE ALLOCATION FORMULA

FOR ALASKA LNG PROJECT PAYMENTS IN LIEU OF PROPERTY TAXES (PILT)

I. Introduction

The commercial sponsors of the Alaska liquefied natural gas project (Alaska LNG) have negotiated with the State of Alaska a methodology and formula under which the project will make payments in lieu of the property taxes (PILT) that the project might otherwise pay to the state and municipalities during project operations based on annual assessed value under AS 29.45 and AS 43.56. The agreement under consideration includes a PILT formula based on the original cost of the project infrastructure with certain annual adjustments for inflation, depreciation and throughput. Once that PILT structure is formally accepted by the project sponsors and the state, the state — not the project sponsors — shall be responsible for allocating a share of the revenues among those municipalities in which the project is located. A share of the revenues also may be distributed to all communities in the state, regardless whether there is any taxable property of the Alaska LNG project within the communities.

The Municipal Advisory Gas Project Review Board (MAG board) proposes a distribution formula intended to apportion the negotiated PILT payments to each municipality in which the project is located based on the percentage of the project within the municipality.

In addition to the PILT distributions based on the percentage of the Alaska LNG project within a municipality's borders, this proposal also provides a per capita payment for each municipality in the state regardless of its connection to the project property. This per capita distribution will allow all communities to share in the project's benefits to Alaska and assist in dealing with any additional costs as a consequence of the project. The per capita distributions would be in addition to the proportional PILT payments for those municipalities where the project is located.

The two components of this distribution plan — one based on payment in lieu of taxes for Alaska LNG property and one based on population — are designed to apply only to municipalities.

II. Allocation of PILT for project property in a municipality: Calculation of proportional allocation.

A. The Department of Revenue shall

(1) determine the proportional share of the Alaska LNG Project located within each municipality and located outside any municipality, expressing the shares as a percentage to the nearest one-hundredth (0.001) of the project cost:

(2) divide the project into three components, each with its own proportional calculation as described in A(1) of this section;

(a) The gas treatment plant at Prudhoe Bay and the natural gas pipeline from Point Thomson to Prudhoe Bay;

(b) The main pipeline, compressor stations and related infrastructure for transporting natural gas from the gas treatment plant at Prudhoe Bay to the intake to the liquefaction plant at Nikiski;

(c) The liquefaction plant, LNG storage tanks, jetty, marine facilities and related infrastructure at the LNG plant site located in Nikiski.

(3) calculate the proportional share of the project cost for each project component in A(2) of this section within each municipality's borders and outside any municipality as a percentage of the component total, as illustrated by the following example:

> If 17.052 percent of the Alaska LNG Project in Component A(2)(b) is located within Borough A, 71.894 percent in Borough B, and 11.054 percent outside a municipality, then 17.052 percent of the PILT for Component A(2)(b) would be allocated to Borough A, 71.894 percent to Borough B, and 11.054 percent to the state.

(4) On September 1 of each year, pay to each municipality the percentage of the Alaska LNG PILT revenue paid to the state that year that is proportional to the municipality's share of the project cost of the Alaska LNG project within its borders as calculated under A. (1) – (3) of this section.

B. Non-municipal allocation. The state's allocated share of PILT funds for the proportional share of Alaska LNG property outside of any organized municipality shall be deposited in the general fund.

C. Property not related to the project. This section does not preclude a municipality from levying and collecting a municipal tax on the full and true value of taxable property under AS 29.45 or AS 43.56 that is unrelated to the Alaska LNG project and not part of the PILT agreement negotiated by the project sponsors and the state. However, this section anticipates that additional property may be added to the project subsequent to the initial PILT calculation by the Department of Revenue, and that such additions shall require the department to recalculate the PILT allocation formulas stated above in II.A. To further clarify, t~~Nor~~his section does not~~it~~ prevent a municipality from levying and collecting property taxes on property outside of ~~not covered by or added subsequent to~~ the PILT agreement between the state and Alaska LNG Project sponsors, regardless whether that property may be used to produce natural gas for eventual inclusion in the Alaska LNG Project.

D. Reconsideration. A municipality aggrieved by the determination of proportionate share under A(1) or (2) of this section may within 45 days of the determination seek reconsideration from the commissioner of revenue. As the distribution formula under this section is based on the percentage of the cost of project property within a municipality's boundaries, a municipality may only seek reconsideration of the percentage allocation of property within its boundaries and not a determination of infrastructure costs. The commissioner shall have 60 days to issue a decision on a reconsideration request. A dispute involving taxation under (c) of this section shall be determined as provided in AS 29.45 and AS 43.56.

E. Definition. In this section, "project cost" means the amount the state and the Alaska LNG project's commercial sponsors have agreed represents the original cost of the Alaska LNG project, but does not include subsequent annual adjustments for inflation or depreciation. "Project cost" would include any subsequent additions to the Alaska LNG project, as described in VI. below.

III. Per-capita allocation.

A. In addition to the PILT funds distributed to those municipalities that have Alaska LNG property within their boundaries, the Department of Revenue shall on September 1 of each year distribute to each municipality in the state from the state's share of PILT funds paid by the project participants an amount equal to $100 per capita multiplied by the number of residents of a municipality. A municipality is eligible for a per capita payment whether or not there is Alaska LNG project property within its borders.

B. Notwithstanding B(1) of this section, the Department of Revenue shall pay a minimum of $25,000 a year to a municipality with a population of 500 or less.

C. The population of the municipality shall be determined by the Department of Commerce, Community and Economic Development as provided in AS 29.45.080(e).

D. A municipality may within 45 days of a population determination under this section seek reconsideration from the commissioner of commerce, community and economic development.

IV. Funding; payment process.

The Department of Revenue shall administer the payment of the allocations made under II and III from a fund established in the general fund to receive payments made by the Alaska LNG Project in lieu of property taxes paid to the state and municipalities.

V.. Payments not subject to cap.

The payments made to municipalities under sections II and III are not subject to the limitations set out in AS 29.45.080 - 29.45.090.

VI. Discussion.

PILT. The proportional allocation determination by the Department of Revenue each year of Alaska LNG property covered by the PILT agreement should take into account not only pipeline mileage, but also the presence of compressor stations and other project-related infrastructure. (Basing the proportional sharing for the pipeline component of the project on mileage alone, for example, would not account for the value of compressor stations along the route.) As noted above, the basis for determining the value of the property covered by the municipal distribution proportional-sharing formula shall be the original cost as established in the negotiated PILT calculation between the project sponsors and the state. Though that negotiated PILT formula includes annual inflationary escalation and depreciation factors, neither would change the proportionate share of the subject property within each municipality, allowing the percentages under the original cost determination to remain valid through the life of the PILT agreement unless property is later added to the project (such as additional compressor stations). Additions to the project subsequent to the original PILT calculation, such as additional compressor stations, additional pipeline mileage or related improvements, expansions and other real property, shall require the Department of Revenue to revise its proportional shares of project components within the affected municipalities. (Such unknown additions are not presently included in this proposal.)

For comparison purposes, there are other PILT funding distribution programs in state statute, some based on the value of the property in question, others on a formula related to road mileage, school population, or the dollar amount of receipts.[1]

[1] For example, in the forest receipts program, the federal government pays the state based on stumpage payment and road construction credits. 16 U.S.C. 500. Payments are allocated to a

Per-capita payments. The per-capita payments are proposed as a form of revenue sharing to ensure that the benefits of the project, apart from access to natural gas, are shared by the state as a whole, especially as the state will be a partner in the venture. This proposal would establish a stable, long-term funding source for revenue sharing to municipalities.[2]

municipality based on the proportion of its area in a national forest, to a city exercising road powers a portion of road miles, and to regional education attendance areas based on student population. AS 41.14.180. The federal government PILT program for national park land is paid to a local government with park land within its boundaries, based on population and lost real estate taxes in the amount of 1% of fair market value on the date the federal government acquires interest in the real estate. 31 U.S.C. 6902, 6904. AHFC's holdings for the purpose of providing housing are subject to PILT that are based on the properties' value. AS 18.55.620.

[2] *Compare*, for example, the state community revenue sharing program, which involves a base amount depending on municipality type, with additional funds (if available) distributed on a per capita basis. AS 29.60.850 – 29.60.890.